

Programmatic Agreement
between
The Bureau of Land Management, Caliente Field Office
and the
Nevada State Historic Preservation Officer
regarding
The Gold Springs Exploration Project
Lincoln County, Nevada

WHEREAS, Gold Springs, LLC (Applicant) has submitted the Plan of Operations for the Gold Springs Exploration Project (Project). The Project is located approximately 25 miles northeast of Caliente, Nevada, at elevations ranging from 6,230 to 7,660 feet above mean sea level. The Applicant plans to conduct phased mineral exploration activities consisting of the following activities within the area outlined on the maps in Appendix I: exploration drilling; road construction; drill site and sump construction; installation of a monitoring well(s); installation and operation of a production water well; trenching and bulk sampling; installation of a meteorological station; and disturbance area reclamation. Customary and reasonable technology and practices will be utilized to avoid unnecessary or undue environmental impacts. The activities associated with this Project are outlined in the attached Plan of Operations (Plan) located in Appendix II. Henceforth, all activities included in the Plan are referred to collectively as the Undertaking; and

WHEREAS, the Bureau of Land Management (BLM), Caliente Field Office (CFO) is considering plans to permit the Undertaking pursuant to the BLM Surface Management Regulations, at 36 Code of Federal Regulations (CFR) 3809, as amended; and

WHEREAS, the CFO, in consultation with the Nevada State Historic Preservation Officer (SHPO), determined that the Project is an Undertaking as defined in the National Historic Preservation Act of 1966, as amended (NHPA) because it takes place on lands managed by the BLM and is an activity that is permitted and approved by the CFO. Therefore, the CFO is responsible for ensuring that the Undertaking is in compliance with Section 106 of the NHPA, 16 U.S.C. § 470f, and its implementing regulations, 36 C.F.R. § 800; and

WHEREAS, the CFO has determined that the Undertaking has the potential to affect historic properties both directly and indirectly and has identified the Undertaking's area of potential effect (APE) as shown on Map 1 in Appendix I in accordance with 36 C.F.R. § 800.16(d); and

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WHEREAS, the Applicant has provided BLM with an overview of previous inventories to identify historic properties are outlined in the Literature Review and Background Research Report (appendix IV; hereinafter called the Literature Review); and

WHEREAS, the CFO determined that due to the phased nature of the Undertaking, the effects to historic properties cannot be fully determined prior to signing a decision document for the National Environmental Policy Act (NEPA) analysis of the Undertaking; and

WHEREAS, in accord with section II.B.2 of the *State Protocol Agreement between the Bureau of Land Management, Nevada and the Nevada State Historic Preservation Office for Implementing the National Historic Preservation Act, Finalized February 3, 2012* (State Protocol) the BLM will develop programmatic agreements for undertakings that are phased if the BLM wishes to defer the final identification and National Register of Historic Places (NRHP) evaluation of resources or the application of the criteria of adverse effect; and

WHEREAS, the CFO is responsible for conducting Native American tribal consultation on a government-to-government level and ensuring that it complies with the BLM manual 8120 and BLM Handbook, H-8120-1, guidelines for conducting tribal consultation. Therefore, the CFO sent certified letters (appendix III) dated 4 November 2013 wherein the BLM invited the following Tribes to consult on this Undertaking:

Battle Mountain Band Council,
Confederated Tribes of the Goshute
Reservation, Nevada-Utah,
Duckwater Shoshone Tribe,
Elko Band Council,
Ely Shoshone Tribe of Nevada,
Kaibab Band of Paiute Indians of the Kaibab
Indian Reservation,
Las Vegas Tribe of Paiute Indians of the Las
Vegas Indian Colony,
Moapa Band of Paiute Indians,
Paiute Indian Tribe of Utah,
Paiute Indian Tribe of Utah: Cedar Band of
Paiutes,

Paiute Indian Tribe of Utah: Indian Peaks
Band of Paiutes,
Paiute Indian Tribe of Utah: Kanosh Band
of Paiutes,
Paiute Indian Tribe of Utah: Koosharem
Band of Paiutes,
Paiute Indian Tribe of Utah: Shivwits Band
of Paiutes,
South Fork Band (Te-Moak Tribes of the
Western Shoshone Indians of Nevada),
Te-Moak Tribes of the Western Shoshone
Indians of Nevada,
Wells Indian Colony Band Council,
Yomba Shoshone Tribe; and

WHEREAS, the CFO is consulting with the Duckwater Shoshone Tribe to identify historic properties that may have religious and cultural significance to this tribe; and

WHEREAS, the CFO has involved the public through the use of the National Environmental Policy Act (NEPA) public participation procedures, wherein the public were invited to participate in the NEPA scoping process and were encourage to provide information regarding the location of potential historic properties that may be affected by the Undertaking to the CFO archaeologist; and

WHEREAS, the BLM has invited the Advisory Council on Historic Preservation (ACHP), pursuant to 36 CFR §800.14(b), to develop and execute this PA and the ACHP has not elected to formally enter consultation on the development of this PA; and

WHEREAS, this PA covers all aspects of the planning, development, and implementation of the Undertaking; and

WHEREAS, the Applicant has been invited to sign this PA as an invited signatory as they will have certain obligations outlined in the stipulations; and

NOW, THEREFORE, the signatories and invited signatories to this PA agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties, and to comply with Section 106 of the NHPA for this Undertaking.

STIPULATIONS

I. Roles and Responsibilities

- a. The signatories and invited signatories agree that all projects or project phases identified as part of this Undertaking shall be subject to the processes outlined herein.
- b. The signatories and invited signatories agree that the State Protocol, except as amended here, shall be utilized for this PA. The State Protocol is incorporated by reference.
- c. The Applicant is responsible for obtaining a contractor qualified to obtain a Cultural Resources Use Permit (CRUP) through the Nevada State Office (NSO) of the BLM and ensuring that they are funded to carry out the requirements of this PA.
- d. The Applicant's contractor shall obtain and keep current a CRUP from the NSO and shall work directly with the BLM Cultural Resources Staff to carry out the provisions of this PA.

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- e. The CFO is responsible for the administration of this PA. This includes but is not limited to ensuring that signatories and invited signatories carry out their responsibilities; overseeing cultural resource work; reviewing draft and final reports; dissemination of reports to the necessary parties; and for seeking SHPO concurrence with agency decisions.
- f. The CFO shall ensure that ethnographic, historic, architectural, and archaeological work conducted pursuant to this PA is carried out by or under the direct supervision of persons meeting qualifications set forth in the *Secretary of the Interior's Professional Qualifications Standards* (currently available at http://www.nps.gov/history/local-law/arch_stnds_9.htm) and that those who require permits for such work by the BLM Nevada have them.

II. Definitions

Terms not defined here and used in this PA are defined in the ACHP's regulations at 36 CFR 800.16 and the State Protocol.

III. The Compliance Process

- a. **Defining the Area of Potential Effect (APE)**
 - i. After the Applicant identifies a new project phase to be accomplished within the APE, the Applicant shall submit the details of that phase to the CFO. The CFO Cultural Resource Specialist (CRS) shall determine the phase-specific APE for direct effects to historic properties in accordance with 36 CFR 800.16(d) and the State Protocol. The phase-specific APE for assessing indirect effects on known historic properties will be the area of the phase of work plus two miles outward in all directions from the perimeter, which would include some areas outside the Undertaking area.

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b. Identification of Historic Properties

- i. BLM shall ensure the identification of historic properties shall be carried out in compliance with the current *Guidelines and Standards for Archaeological Inventory (January 2012 – Fifth Edition)* (Guidelines) as published on the BLM Nevada Cultural webpage.

http://www.blm.gov/nv/st/en/prog/more_programs/cultural_resources.html

- ii. Tribal involvement

1. The BLM shall ensure that tribal involvement regarding the identification of historic properties occurs by inviting the Tribes, during government-to-government consultation efforts, to identify areas of traditional religious and/or cultural significance within the direct and indirect APEs. The BLM shall ensure that any properties identified through tribal consultation efforts are provided to the Applicant's contractor.

- iii. Public involvement

1. The BLM shall ensure public involvement regarding the identification of historic properties by inviting interested parties to identify properties that may be affected within the direct and indirect APEs using the NEPA Public Notification process. The BLM shall ensure that any properties identified through public involvement efforts are provided to the Applicant's contractor.

- iv. Literature Review and Background Research

1. Prior to conducting an inventory of a project phase the Applicant's contractor shall contact the Caliente (and Cedar City if necessary) BLM Field Office to ensure that all recent inventories within the APE as defined in stipulation III.a of this agreement, are considered.

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v. Inventory for Historic Properties

1. BLM shall ensure that the Applicant's contractor inventories the entire direct effect APE for each phase as identified by the BLM according to Class III standards outlined in the Guidelines and State Protocol prior to the BLM authorizing any ground disturbance for the specific project phase. The BLM shall also ensure that appropriate reports are prepared in accordance with the Protocol and Guidelines.
2. The Applicant's contractor shall determine boundaries for all previously recorded and newly discovered cultural resources identified during the inventory described in Stipulation III.b.iv.1.
3. All previously recorded and newly discovered archaeological resources shall be documented on the BLM Nevada Intermountain Antiquities Computer System (IMACS) Form according to the Guidelines.
4. All previously recorded and newly discovered architectural resources shall be documented on the appropriate BLM inventory form according to the Guidelines.

c. Evaluation of Historic Properties

- i. BLM, in consultation with the SHPO and other consulting parties as appropriate, shall make determinations of NRHP eligibility for all previously recorded and newly discovered cultural resources identified during the inventory.
- ii. If, during the course of tribal consultation, a Tribe identifies an area (or areas) of concern the BLM shall consult with the Tribes regarding eligibility of resources within that area of concern. Based on information shared with the BLM, the BLM would determine the NRHP eligibility of identified properties, and consult on these determinations with SHPO and the Tribes.

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- iii. If, during the course of consultation, an individual or group identifies an area (or areas) of concern the BLM shall consult with the appropriate party regarding eligibility of resources within that area of concern.
- d. **Determining Project Effects to Historic Properties**
 - i. The Applicant's contractor shall assess the direct and indirect effects of each project phase of the Undertaking to all historic properties within the direct effects APE in accordance with the Guidelines. The BLM shall review and approve all key observation points (KOPs) established to assess indirect effects to historic properties.
 - ii. BLM, in consultation with the SHPO, shall take into account information obtained through tribal and public consultation and make a determination of project phase effect in accordance with 36 CFR 800.5.
- e. **Resolution of Adverse Effects**
 - i. **Avoidance:** BLM, in consultation with SHPO, Tribes and other consulting parties as appropriate, shall ensure that the Applicant avoids adverse effects to historic properties through project design or redesign, relocation of facilities, or by other means in a manner consistent with this PA. BLM Manual 8140.06C states that first choice shall be to avoid historic properties that would otherwise be affected by a proposed land use, if it is reasonable and feasible to do so.
 - a. Project phases shall be redesigned where reasonable and feasible to avoid historic properties.
 - b. BLM shall apply a standard buffer of 30 meters to all historic property boundaries to ensure protection of these resources during ground disturbing activities of the Undertaking. Where architectural resources are present, the buffer shall be extended to 50 meters.

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- c. BLM shall ensure that flagging is placed to minimize the potential for looting and vandalism during implementation of the phase of Undertaking and removed as soon as possible after the project phase is completed.
 2. The BLM shall ensure that the avoidance measures are implemented after project phase approval and prior to initiating this ground-disturbing activities associated with the project phase.
- ii. Where avoidance in not reasonable or feasible:
 1. The Applicant's contractor shall draft a Historic Properties Treatment Plan (HPTP) to propose treatments to address the adverse effects of the project phase of the Undertaking on historic properties identified within both the direct and indirect effects APEs.
 2. The BLM, in consultation with the SHPO, Tribes and other consulting parties as appropriate, shall determine, to the extent possible, if the proposed treatments are appropriate and adequate to minimize or mitigate adverse effects to historic properties through the development and execution of the HPTP.
 3. The BLM shall consult with the Tribes, or identified affected tribal members, to evaluate effects to properties of traditional religious and cultural importance. Based on information shared with the BLM, the BLM shall determine the appropriate treatment to avoid or to minimize adverse effects, and consult on these determinations with SHPO and the Tribes.

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4. For properties eligible under Secretary's criteria (a) through (c), mitigation other than data recovery may be considered in the treatment plan (e.g., Historic American Buildings Survey/Historic American Engineering Record recording, oral history, historic markers, exhibits, interpretive brochures or publications, etc.). Where appropriate, treatment plans may include provisions (content and number of copies) for a publication for the general public.
5. The BLM, in consultation with the SHPO, shall ensure that the fieldwork portion of the HPTP shall be carried out prior to any ground disturbance within 100 meters of the affected historic property within the area covered by the plan.
6. The BLM shall execute this HPTP after project phase approval and prior to initiating a project phase under this PA.

f. Reporting

- i. All reports of identification, recordation, evaluation, treatment or other mitigation activities associated with this PA shall use the BLM Cultural Resources Report Number 8111-NV-040-[FY]-2056. CRS will assign the appropriate two-digit Fiscal Year code as well as a unique letter for each report as part of the authorization for the project phase.
- ii. The Applicant's contractor shall not provide any information regarding the identification, recordation, evaluation, treatment or other mitigation activities associated with this PA to any party without prior authorization by the BLM.
- iii. The initial cultural resource inventory report for the Undertaking shall contain all report sections outlined in the Guidelines, as well as incorporate the Literature Review.

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- iv. Subsequent reports prepared by the Applicant's contractor under this PA shall only contain the following sections completed in accordance with the Guidelines:
 - 1. Administrative Summary; and
 - 2. Project phase Description (for the current phase); and
 - 3. Reference the historic overview, historic context, environmental background and expectations contained in the initial cultural resources inventory report; and
 - 4. Field Methods; and
 - 5. Results of the Inventory; and
 - 6. NRHP Eligibility Recommendations; and
 - 7. Recommendations of Project phase effect; and
 - 8. Conclusions; and
 - 9. Bibliography; and
 - 10. Appendices.
- v. A draft report of any activity carried out under this PA shall be due to the BLM from the Applicant's contractor within three (3) months after the completion of the fieldwork associated with the activity, unless otherwise negotiated.
- vi. The BLM shall review and comment on any report submitted by the Applicant's contractor within 30 calendar days of receipt, unless otherwise negotiated.
- vii. The Applicant's contractor shall then have 30 calendar days to respond to all comments by the BLM.

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- viii. The Applicant's contractor shall provide four (4) copies (two (2) bound and two (2) unbound) of amended draft reports to the BLM for dissemination to the following parties.
 - 1. The Applicant – Bound Copy
 - 2. BLM CFO – Bound Copy
 - 3. BLM Ely Archive – Unbound Copy
 - 4. SHPO – Unbound Copy
 - ix. The BLM shall submit the results of identification, recordation, evaluation and treatment efforts, including discovery situations, and treatment plans to the SHPO for a 30-calendar day review period.
 - x. If the SHPO fails to respond to the BLM within 30 calendar days of the certified receipt of a submission, the BLM shall presume concurrence with the findings and recommendations as detailed in the submission and proceed accordingly.
 - xi. The BLM shall ensure that all final archaeological reports resulting from actions pursuant to this PA shall be provided to the SHPO. All such reports shall be consistent with contemporary professional standards and the Department of Interior's formal standards for final reports of data recovery programs (48 Federal Register 44716-44740).
- g. Information Sharing and Confidentiality
- i. The BLM shall ensure the security of confidential information provided by Tribes or Consulting Parties.
 - ii. The BLM will provide the Applicant a copy of all final reports prepared for this project and the locational information for Historic Properties and Traditional Cultural Properties within the APEs, and updates of this information as it becomes available.

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- iii. The Applicant agrees to maintain the confidentiality of any locational or other Cultural Resource and Traditional Cultural Property information received under this Agreement, and to design procedures to ensure that such information is only made available to personnel with a need to know this information in order to design project facilities or conduct operations in a manner to avoid effects to Historic Properties, Traditional Cultural Properties, or known archeological resources. Operator shall keep such information in a secure location with access limited to necessary Applicant representatives. The Cultural Resource and Traditional Cultural Property information obtained by the Applicant under this Agreement will not be used for any purpose other than consultation with the BLM and the SHPO or conduct of Applicant operations in compliance with this Agreement and applicable laws.
- iv. Precise Historic Property location data will be omitted or redacted from reports and site forms provided to Consulting Parties, with whom the BLM does not have a signed information sharing agreement, pursuant to Section 304 of the NHPA that release of such data could jeopardize Historic Properties.
- v. Should the Project or Agreement be terminated, the Applicant agrees to gather and securely store all confidential information, including electronic files until closure and reclamation is complete and such information is no longer needed, after which the Applicant shall destroy through shredding or erasure the confidential files and information, and provide written notification to the BLM upon the completion of this task. The Applicant agrees not to share any such records beyond what is authorized in this Stipulation (III.g) without the written approval of the BLM."

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IV. Notices to Proceed (NTP)

- a. The BLM, in consultation with SHPO, may issue an NTP for individual project phases, under the following conditions:
 - i. The BLM, in consultation with the SHPO, has determined that:
 1. There are no historic properties present within the APE; and
 2. In consultation with the Tribes, no properties of traditional religious or cultural importance that are eligible for the NRHP were identified within the APE for the project phase.
 - ii. The BLM has taken steps outlined in Stipulation I.e. (ii) to avoid effects to historic properties; or
 - iii. The BLM, in consultation with the SHPO and, in the case of properties of traditional religious or cultural importance that are eligible for the NRHP, with the Tribes, has developed and implemented an adequate treatment plan for the project phase; and
 1. The fieldwork phase of the HPTP has been completed; and
 2. The BLM has prepared or accepted a summary description of the fieldwork performed and a schedule for reporting that work; and
 3. The BLM has provided a copy of the summary to the SHPO; and
 4. The SHPO has reviewed the summary and if the SHPO concurs or does not respond within two working days of receipt, the BLM shall assume concurrence and issue the NTP; and
 5. No ground disturbing activities within 100 meters of the boundaries of any historic property shall proceed until a NTP is issued for the property; and
 6. A partial NTP may be issued for portions of the APE that are outside of the area that may affect historic properties and beyond the 100-meter boundary identified in Stipulation III.e.ii.5 above.

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V. Duration

This PA shall remain in effect for ten (10) years from the date of its execution. Prior to such time, BLM may consult with the other signatories and invited signatories to reconsider the terms of the PA and amend it in accordance with Stipulation VIII below. If the Undertaking has not been initiated within five years of the date of its execution, this PA will automatically terminate.

VI. Unanticipated Discovery Situations

Stipulations of this PA and the State Protocol are intended to identify and treat cultural resources that are eligible for inclusion in the NRHP. Unexpected discoveries of buried cultural resources are not anticipated. In the case of an unexpected discovery, the BLM shall ensure that provisions in the State Protocol (Section VI.B) are met.

VII. Monitoring

Any signatory or invited signatory may monitor actions carried out pursuant to this PA, subject to operative health and safety standards in effect. To the extent practicable, monitoring activities shall minimize the number of monitors involved in the Undertaking.

VIII. Dispute Resolution

- a. If any signatory or invited signatory to this PA, or other consulting party, objects to any activities pursuant to the terms of this PA, that party shall submit in writing the dispute and a proposed resolution to each of the signatories and invited signatories.
- b. The CFO Manager shall consult with the objecting party and the signatories and invited signatories to resolve the issue. If the CFO Manager determines that the objection cannot be resolved, they shall request the assistance of the BLM Nevada Deputy Preservation Officer and the Ely District Manager to resolve the objection. The BLM Ely District Manager's decision shall be considered final.
- c. BLM shall send a final decision to all signatories, invited signatories and consulting parties regarding the resolution of the dispute.

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- d. The signatories and invited signatories may continue all actions under this PA that are not in dispute.

IX. Amendments

This PA may be amended when such an amendment is agreed to in writing by all signatories and invited signatories. The amendment shall be effective on the date an amendment signed by all of the signatories and invited signatories is received by the ACHP.

X. Termination

- a. If any signatory or invited signatory to this PA determines that its terms shall not (or cannot) be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation IX, above. If within thirty (30) days an amendment cannot be reached, any signatory or invited signatory may terminate the PA upon written notification to the other signatories.
- b. Once the PA is terminated, and prior to work continuing on the Undertaking, BLM must either (a) execute an PA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7 . BLM shall notify the signatories and invited signatories as to the course of action it shall pursue.

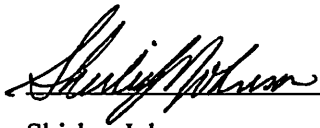
XI. Execution

- a. Execution of this PA by the BLM and SHPO and implementation of its terms evidence that BLM has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.

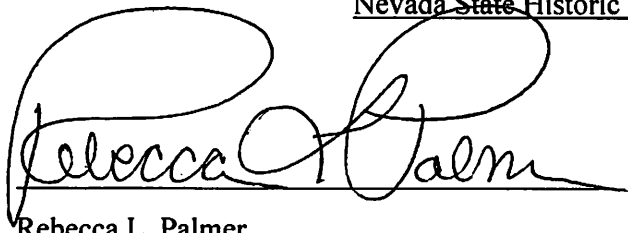
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SIGNATORIES:

U.S. Department of the Interior, Bureau of Land Management

 _____ Date: 1/9/14
Shirley Johnson,
Field Manager, Caliente Field Office

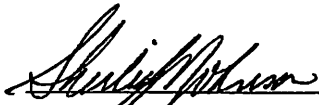
Nevada State Historic Preservation Office

 _____ Date: 1/13/14
Rebecca L. Palmer,
Nevada State Historic Preservation Officer

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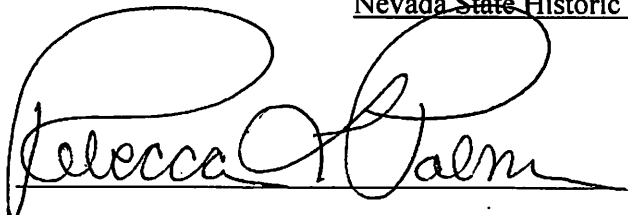
SIGNATORIES:

U.S. Department of the Interior, Bureau of Land Management

 _____ Date: 1/9/14 _____

Shirley Johnson,
Field Manager, Caliente Field Office

Nevada State Historic Preservation Office

 _____ Date: 1/13/14 _____

Rebecca L. Palmer,
Nevada State Historic Preservation Officer

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INVITED SIGNATORIES:

Gold Springs LLC

_____ Date: _____

Randall Moore,

Executive VP of Exploration

On behalf of Nevada High Desert Gold, LLC

Managing Member of Gold Springs, LLC

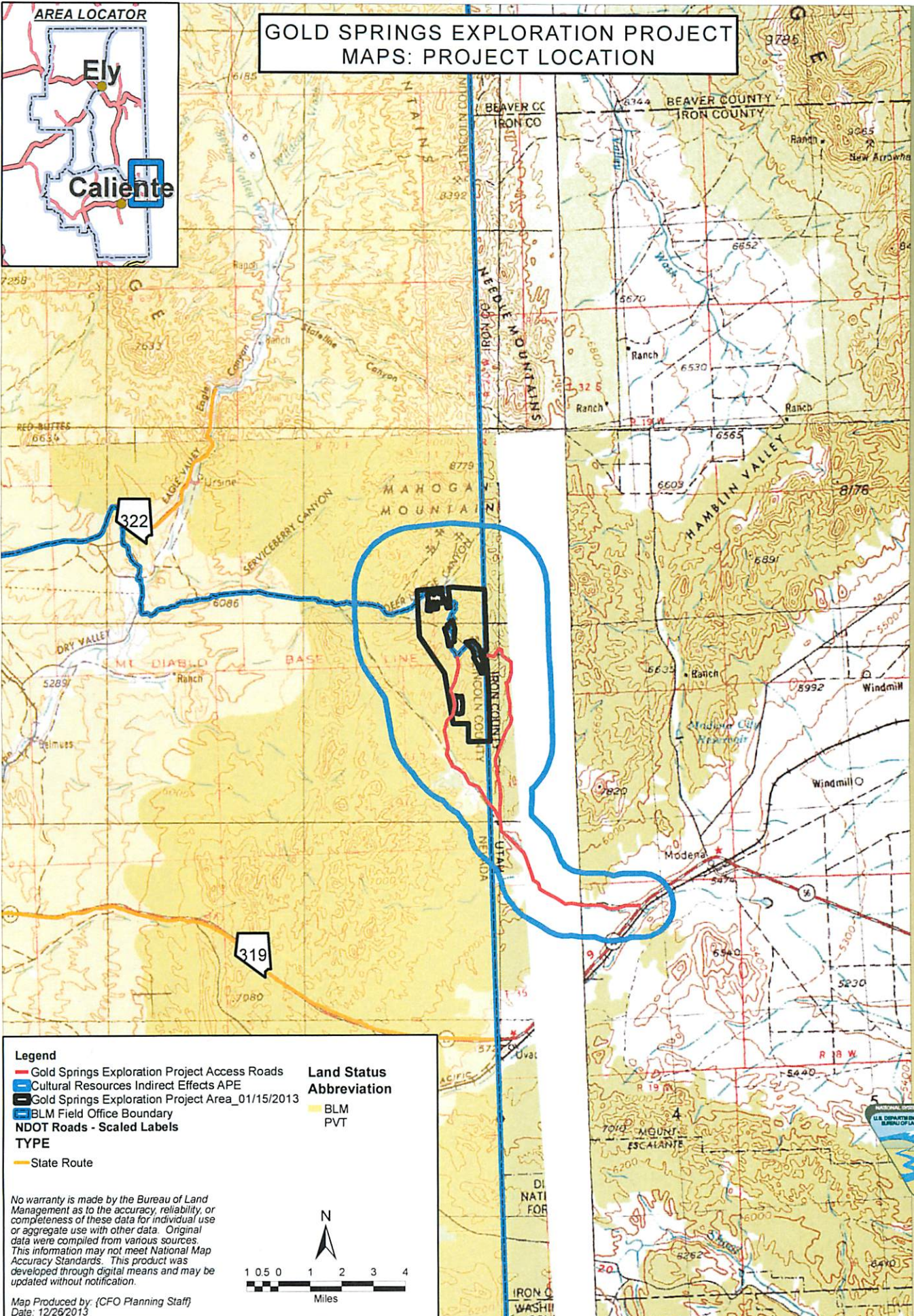
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Appendix I: MAPS

- 1. Project Location**
- 2. Project Area 1:48,000**
- 3. Project Area 1:24,000 North Project Area**
- 4. Project Area 1:24,000 South Project Area**

January 9, 2014

GOLD SPRINGS EXPLORATION PROJECT MAPS: PROJECT LOCATION



Legend

- Gold Springs Exploration Project Access Roads
- Cultural Resources Indirect Effects APE
- Gold Springs Exploration Project Area_01/15/2013
- BLM Field Office Boundary
- NDOT Roads - Scaled Labels

TYPE

- State Route

Land Status Abbreviation

- BLM
- PVT

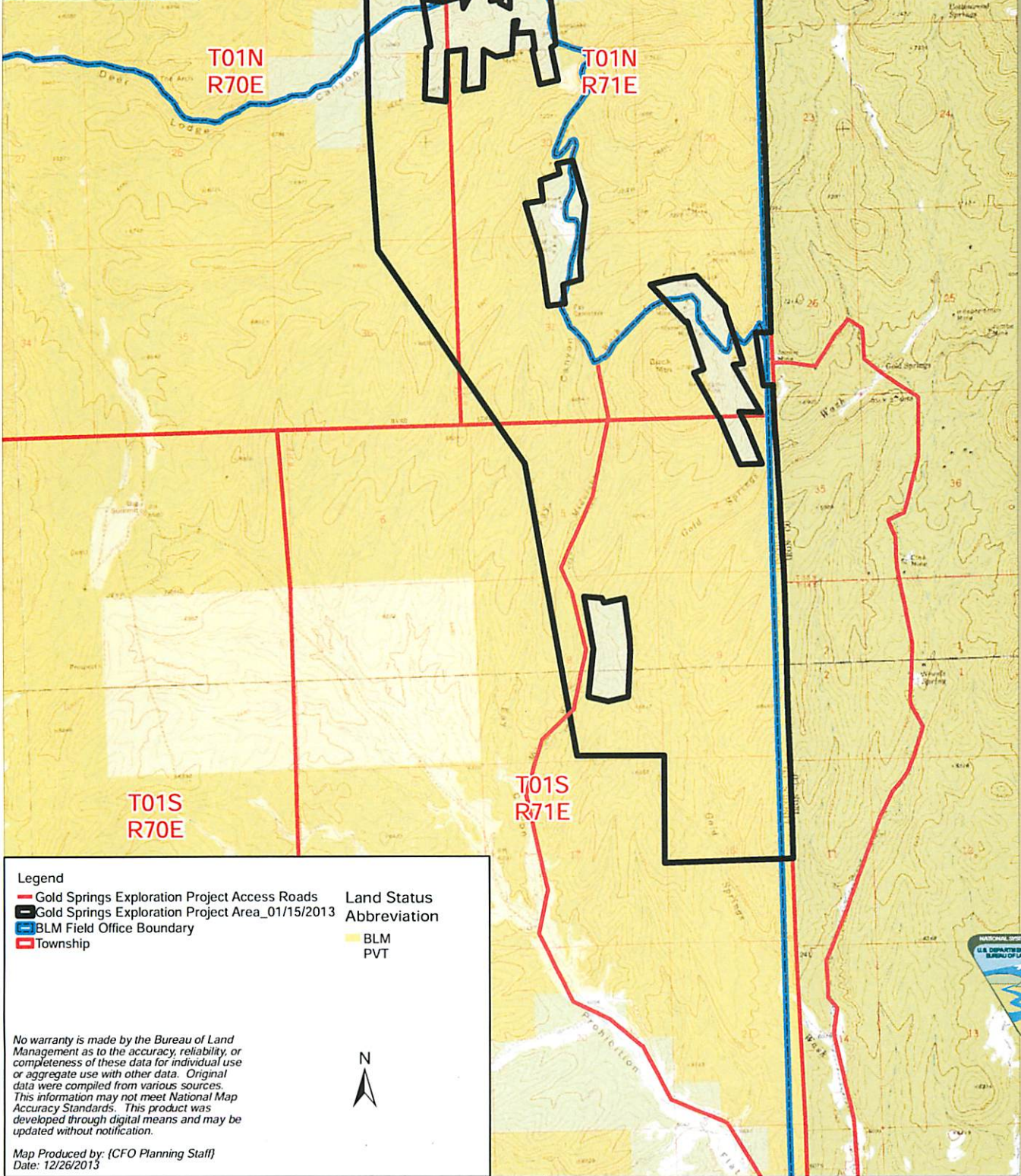
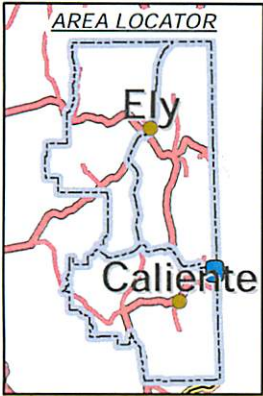
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Map Produced by: {CFO Planning Staff}
Date: 12/26/2013

Ely District Office



GOLD SPRINGS EXPLORATION PROJECT MAPS: PROJECT AREA 15'



Legend	
	Gold Springs Exploration Project Access Roads
	Gold Springs Exploration Project Area_01/15/2013
	BLM Field Office Boundary
	Township
	Land Status Abbreviation
	BLM
	PVT

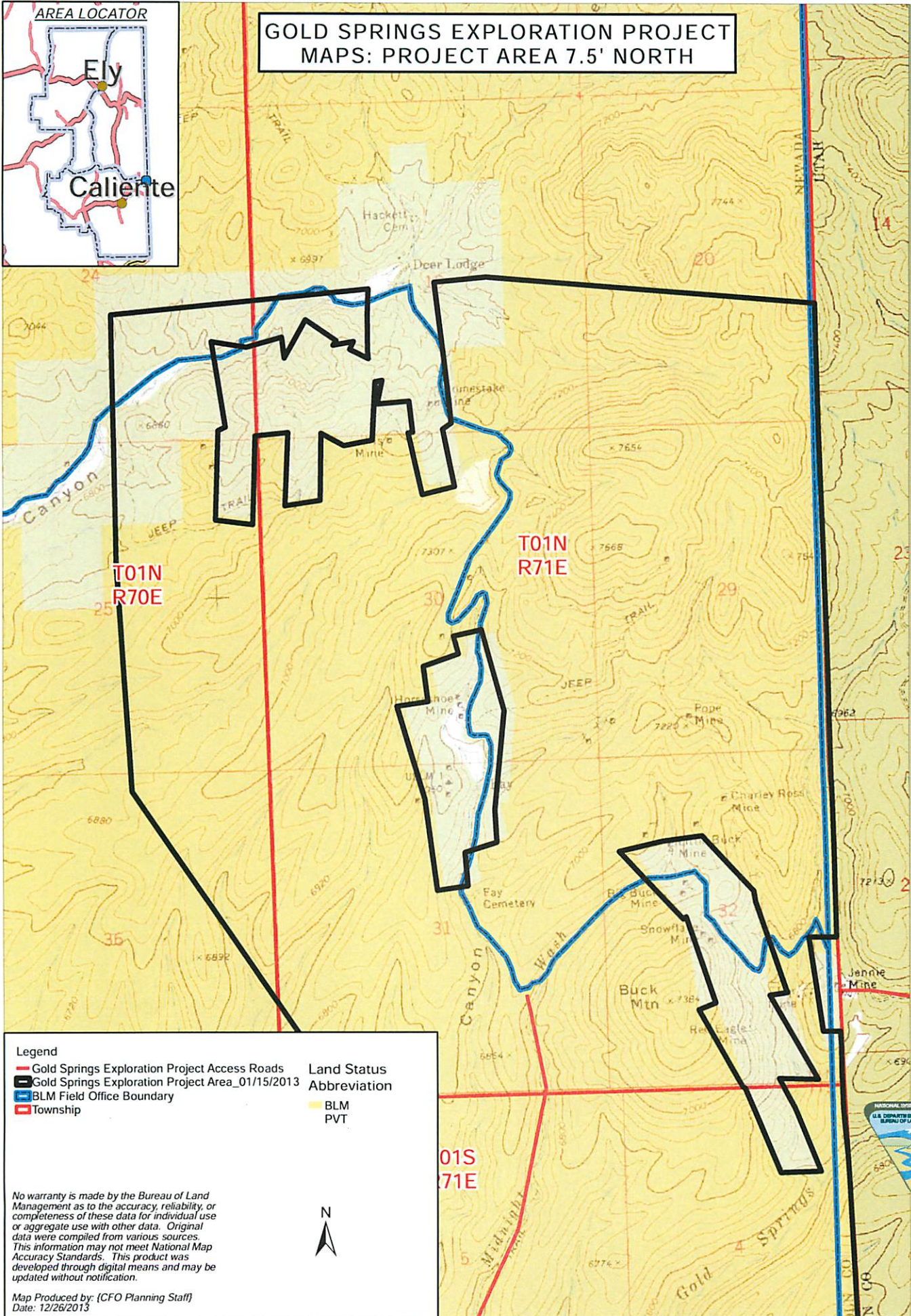
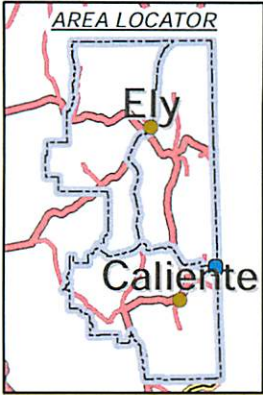
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Map Produced by: (CFO Planning Staff)
Date: 12/26/2013



GOLD SPRINGS EXPLORATION PROJECT MAPS: PROJECT AREA 7.5' NORTH

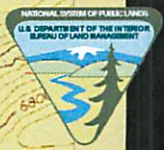


Ely District Office

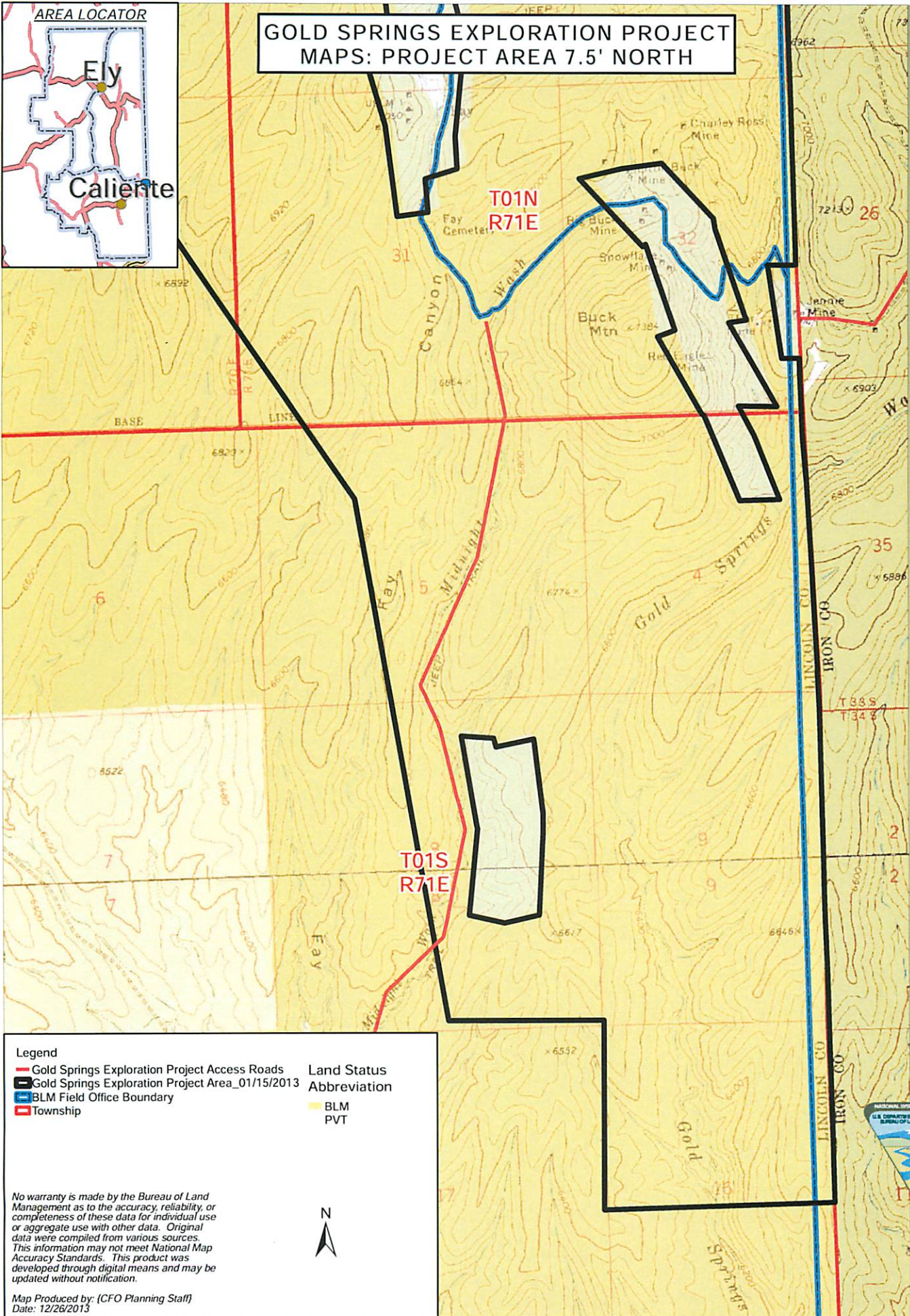
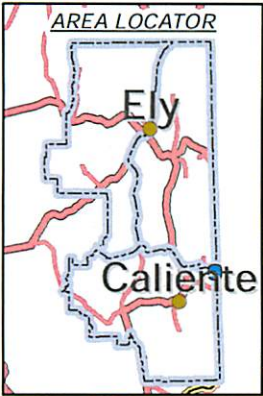
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| Gold Springs Exploration Project Access Roads | Land Status Abbreviation |
| Gold Springs Exploration Project Area_01/15/2013 | BLM |
| BLM Field Office Boundary | PVT |
| Township | |

No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.

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Date: 12/26/2013



GOLD SPRINGS EXPLORATION PROJECT MAPS: PROJECT AREA 7.5' NORTH



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|--|---------------------------------|
| Gold Springs Exploration Project Access Roads | Land Status Abbreviation |
| Gold Springs Exploration Project Area_01/15/2013 | BLM |
| BLM Field Office Boundary | PVT |
| Township | |

No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.

Map Produced by: (CFO Planning Staff)
Date: 12/26/2013



**Programmatic Agreement between the Bureau of Land Management, Caliente Field Office
and the Nevada State Historic Preservation Officer regarding the Gold Springs Exploration
Project, Lincoln County, Nevada**

Appendix II: Plan of Operations

January 9, 2014